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AT SEATTLE
CLERK U.S. DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
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BY

Honorable James L. Robart



11-CV-00088-ORD

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

JUDY LEWIS, on behalf of herself and others
similarly situated,

Plaintiff,

v.

CHASE HOME FINANCE, LLC,

Defendant.

No. C11-0088 JLR

ORDER, JUDGMENT AND DECREE
GRANTING FINAL APPROVAL TO
CLASS ACTION SETTLEMENT,
APPROVING ATTORNEY FEE
AWARD, APPROVING
REPRESENTATIVE PLAINTIFF
AWARD AND DISMISSING CLAIMS
WITH PREJUDICE

I. FINDINGS OF FACT

1. On December 15, 2010, Plaintiff Judy Lewis filed this putative class action (the "Action") against Chase Home Finance LLC, on behalf of borrowers in the State of Washington alleging that when borrowers paid off mortgage loans serviced by Chase Home Finance LLC they were charged Substitution of Trustee Recording Fees (the "Fees") that were not permitted.

2. JPMorgan Chase Bank, N.A., the successor by merger to Chase Home Finance LLC ("Chase") denies Plaintiff's allegations in the Action and contends, among other things, that (1) the Fees were permitted in connection with the loans, (2) were authorized and voluntarily paid by the borrowers, (3) the borrowers received a substantial benefit in exchange for payment of the Fees, (4) the manner of charging, disclosing and requesting payment of the Fees was not unfair or deceptive and did not have the capacity to deceive or

1 mislead borrowers, (5) no class should be certified in the Action, and (6) it would prevail in
2 the Action if it proceeded.

3 3. Chase has identified approximately 53,815 Class Members who paid the Fees
4 from January 1, 2008 to February 28, 2011.

5 4. The parties have engaged in contested litigation and have exchanged
6 substantial information about the facts underlying Plaintiff's claims and the claims of the
7 Settlement Class Members. They have conducted extensive, arm's-length settlement
8 discussions over the terms of the Settlement Agreement, including providing pre-mediation
9 submissions and engaging in a day-long mediation before the Hon. Paris Kallas (Retired).

10 5. Based upon extensive analysis of the facts and the law applicable to Plaintiff's
11 claims, and taking into account the extensive burdens and expense of litigation, including the
12 risks and uncertainties associated with protracted trials and appeals and the fair, cost-
13 effective and assured method of resolving the claims of the Settlement Class, Plaintiff and
14 Plaintiff's Counsel have concluded that the Settlement Agreement provides substantial
15 benefits to the Settlement Class and is fair, reasonable, adequate and in the best interests of
16 the Settlement Class.

17 6. Although Chase denies the assertions by Plaintiff in the Action, and denies
18 any wrongdoing or liability to Plaintiff or the putative class of any kind, Chase has concluded
19 that the Settlement Agreement is in its best interests to avoid the time, expense and
20 management distraction of defending potentially protracted litigation.

21 7. This Court previously considered Plaintiff's motion for preliminary approval
22 of the Settlement Agreement, together with supporting materials, including the Settlement
23 Agreement, the Notice Plan, and the proposed Class Notice. On September 18, 2012, this
24 Court entered its Order Preliminarily Approving Class Action Settlement, Striking Case
25 Deadlines, Authorizing Distribution of Class Notice and Setting Final Approval Hearing (the
26 "Preliminary Approval Order"). Among other things, the Preliminary Approval Order

1 approved and directed the distribution of the Class Notice regarding the Settlement
2 Agreement, set deadlines for the filing of requests for exclusion and objections, and set the
3 date for the Final Approval Hearing.

4 8. The Parties and the Settlement Administrator have submitted declarations and
5 exhibits demonstrating that they have complied with all of the requirements of the
6 Preliminary Approval Order concerning the distribution of the Class Notice to the Settlement
7 Class.

8 9. On October 23, 2012, Plaintiff's Counsel filed and posted to a website
9 accessible by Settlement Class Members a motion seeking an Attorney Fee Award and
10 Representative Plaintiff's Award. On December 13, 2012, Plaintiff's Counsel filed a motion
11 seeking final approval of the Settlement Agreement.

12 10. On December 21, 2012, this Court held the Final Approval Hearing to
13 consider, among other things, whether to grant final approval to (a) the Settlement
14 Agreement, (b) Plaintiff's Counsel's application for the Attorney Fee Award and the
15 Representative Plaintiff's Award, and (c) the entry of this Final Approval Order.

16 11. Having read, reviewed and considered the papers filed with this Court, the
17 oral arguments of counsel, and the written and oral objections and comments of all those who
18 appeared at the Final Approval Hearing, and based on the entire record in the Action, the
19 Court finds that the Settlement Agreement is fair, reasonable, adequate and in the best
20 interests of the Settlement Class and should be finally approved.

21 II. ORDER, JUDGMENT AND DECREE

22 The Court having considered the record in the Action, the materials submitted in
23 connection with the Preliminary Approval Motion, the materials submitted in connection
24 with the motion for final approval of the Settlement Agreement and good cause having been
25 shown,
26

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that:

1. This Court has subject matter jurisdiction over the claims asserted in this proceeding including the Settled Class Claims, has personal jurisdiction over the settling parties (including the Persons in the Settlement Class), and subject matter jurisdiction to approve the Settlement.

2. As demonstrated by declarations, the parties have complied with the terms of the Preliminary Approval Order regarding the Notice Plan. Notice given to the Settlement Class was reasonably calculated under the circumstances to apprise the Settlement Class of the pendency of this action, all material terms of the Agreement, their opportunity to exclude themselves from the Settlement Class, to object to or to comment on the Settlement Agreement, and to appear at the Final Approval Hearing. The notice was reasonable and the best notice practicable under the circumstances, was due, adequate, and sufficient notice to all members of the Settlement Class, and complied fully with the Federal Rules of Civil Procedure and federal constitutional due process, and any other applicable rules of the Court. Settlement Class Members were provided a full opportunity to participate in the Final Approval Hearing, and all Settlement Class Members and other persons wishing to be heard have been heard. Accordingly, the Court determines that all members of the Settlement Class, except those who have timely and properly excluded themselves from the Settlement Class, are bound by the Agreement and this Final Approval Order.

3. The Opt Outs are identified on a list filed under seal with the Court. The Opt Outs are not bound by the Agreement or this Final Approval Order.

4. The Settlement Class (as defined in the Preliminary Approval Order) is granted final certification for purposes of the Settlement.

5. The Court hereby grants final approval to the Settlement Agreement and finds that it is fair, adequate and reasonable, and in the best interests of the Settlement Class as a whole. *The parties entered into the Settlement Agreement after contested litigation and in*

1 good faith after extensive, non-collusive and arm's-length negotiations, including full-day
2 mediation before a knowledgeable retired judge. The Court has considered and overrules all
3 of the filed objections, if any.

4 6. Neither this Final Approval Order nor the Settlement Agreement is an
5 admission or indication by the Released Parties of the validity of any claims in the Action or
6 of any liability or wrongdoing. This Final Approval Order and the Settlement Agreement are
7 not a concession, and neither of them shall be used as an admission or indication with respect
8 to any claim of any wrongdoing, fault or omission by any Released Party or any other person
9 in connection with any transaction or occurrence or any statement, release or written
10 document issued, filed or made. Neither this Final Approval Order nor the Settlement
11 Agreement, nor any related document, proceeding or action, nor any reports or accounts
12 thereof, shall be offered or received in evidence in any civil, criminal or administrative
13 proceeding, other than proceedings that may be necessary to enforce the Settlement
14 Agreement and the releases granted in the Settlement Agreement or this Final Approval
15 Order.

16 7. Plaintiff and all Settlement Class Members shall be and hereby are
17 conclusively deemed to have fully, finally, and forever released and discharged the Released
18 Parties from the Settled Class Claims as provided in the Settlement Agreement. This release
19 is binding and effective on each Settlement Class Member and any of their predecessors,
20 successors, partners, parents, subsidiaries, affiliates, custodians, agents, assigns,
21 representatives, marital communities, heirs, executors, trustees, administrators and any other
22 person or entity having any legal or beneficial interest in the Settled Class Claims, including
23 Unknown Class Claims.

24 8. In connection with the releases in the Agreement and this Final Approval
25 Order, the following capitalized terms have the following meanings:
26

1 (a) "Released Party or Parties" means Chase, and each of its respective
2 predecessors, successors, parents, subsidiaries, affiliates and assigns, together with their past,
3 present and future officers, directors, employees, independent contractors, shareholders,
4 investors, owners of any kind, representatives, controlling persons, partners, associates,
5 attorneys, accountants, service providers, agents, consultants, insurers, reinsurers, subrogees,
6 trustees and creditors, including without limitation, the heirs, marital communities, executors,
7 administrators, custodians, successors and assigns of any or all of them.

8 (b) "Settled Class Claims" means collectively any and all claims, demands, rights,
9 liabilities, suits, matters, obligations, damages, losses, costs, actions and causes of action of
10 every nature and description whatsoever, in law or equity, known or unknown, latent or
11 patent, asserted, unasserted or that might have been asserted (including, without limitation,
12 assigned claims and common law claims for breach of contract, unjust enrichment, violations
13 of any Consumer Protection Act or state or federal statutes, rules or regulations) either
14 directly, in a representative capacity or in any other capacity, by the Releasing Parties against
15 the Released Parties, arising from or in any way relating to the Settling Defendants' demand
16 for, or collection or retention from Settlement Class Members of the Substitution of Trustee
17 Recording Fees or the Settling Defendants' making of alleged misrepresentations, omissions,
18 statements, misleading disclosures or failures to disclose information about such Fees.
19 Settled Class Claims includes without limitation Unknown Class Claims and all claims
20 asserted in the Second Amended Complaint on file in the Action, and all claims alleged or
21 asserted, or which could have been alleged or asserted, against the Released Parties which
22 arise from the alleged acts, omissions, representations, facts, events, matters, transactions or
23 occurrences relating to Substitution of Trustee Recording Fees at issue in the Action.

24 (c) "Unknown Class Claims" means any and all claims by the Releasing Parties
25 against the Released Parties arising from the facts and circumstances that were alleged in the
26 Second Amended Complaint in the Action based on facts which now exist, may hereafter

1 exist, or have previously existed that the Releasing Parties may hereafter discover in addition
2 to, or different from, those which Plaintiff's Counsel and the Releasing Parties now know or
3 believe to be true concerning the Settled Class Claims, without regard to the subsequent
4 discovery of those facts by the Releasing Parties or the existence of any such different or
5 additional facts.

6 The Releasing Parties have waived any and all rights which they may have had under
7 or pursuant to (i) the provisions of section 1542 of the Civil Code of the State of California
8 and/or (ii) the provisions of any other similar statutory, regulatory or common law of any
9 state, or of the United States.

10 9. Plaintiff and all Settlement Class Members are hereby barred and permanently
11 enjoined from prosecuting, commencing or continuing any proceedings regarding the Settled
12 Class Claims against the Released Parties.

13 10. Without affecting the finality of this Final Approval Order, the Court reserves
14 continuing jurisdiction over the Parties to the Agreement and the Settlement Class, to
15 administer, supervise, construe and enforce the Agreement in accordance with its terms.

16 11. The Settlement Agreement is approved and expressly incorporated herein by
17 this reference. The parties shall consummate the Settlement Agreement according to its
18 terms.

19 12. Without prejudice to the Opt Outs, this Action is dismissed with prejudice and
20 without an award of costs or fees to any party except as provided below.

21 13. Within ten (10) days of the Effective Date of this Order, Chase shall deliver to
22 the Settlement Administrator Seven Hundred Thirty Thousand Dollars (\$730,000), less any
23 amounts already paid by Chase to the Settlement Administrator for the costs of Notice or
24 Settlement Administration, (the "Settlement Fund") to be held and disbursed by the
25 Settlement Administrator in accordance with the terms of this Order. The Settlement
26 Administrator is authorized and directed to deposit the Settlement Fund into a segregated

1 account, to calculate and pay Awards from the Settlement Fund to Award Recipients and
2 distribute any remainder in the Settlement Fund Account as provided by this or subsequent
3 orders of this Court.

4 14. Plaintiff's Counsel's request for the Attorney Fee Award, payable solely from
5 the Settlement Fund, is approved in the amount of \$185,545.29, which includes their
6 litigation costs. The Settlement Administrator shall pay the Attorney Fee Award to the
7 Plaintiff's Counsel in such shares as shall be directed by Plaintiff's Counsel.

8 15. Plaintiff's Counsel's request for the Representative Plaintiff Award is
9 approved in the amount of \$8,500 for Judy Lewis, payable solely from the Settlement Fund.
10 The Settlement Administrator shall pay the Representative Plaintiff Award by delivering a
11 check payable to Plaintiff to Williamson and Williams.

12 16. The Settlement Administrator shall calculate the amount payable to each
13 Award Recipient as provided in Paragraph 4.02 of the Agreement and shall mail Award
14 checks within twenty (20) calendar days after the Effective Date.


15 17. Award checks will be valid and will only be paid if they are cashed on or
16 before the Award Expiration Date. Award checks shall include a legend indicating that after
17 the Award Expiration Date they are invalid, cannot be cashed and will not be honored. The
18 bank holding the Settlement Fund Account established by the Settlement Administrator is
19 hereby prohibited from paying or honoring any Award checks more than six business days
20 after the Award Expiration Date. The Settlement Administrator is directed to provide the
21 bank holding the Settlement Fund Account with a copy of this Final Approval Order at the
22 time that account is opened and to draw its attention to this paragraph 17.

23 18. Not later than thirty (30) calendar days after the Award Expiration Date, the
24 Settlement Administrator shall distribute the funds remaining in the Settlement Fund
25 Account, if any, as provided in the Agreement.
26

19. If the Settlement does not become effective as provided in the Agreement, then this Final Approval Order shall be rendered null and void and shall be vacated. In such event, all orders entered in connection with the Settlement (including, without limitation, the Preliminary Approval Order) shall be vacated and the Parties shall return to their respective litigation positions as of the date immediately preceding the entry of the Preliminary Approval Order. The Parties shall jointly request the Court to hold a scheduling conference for the purpose of establishing a new case schedule.

IT IS SO ORDERED. *JLR*

DATED this 26th day of December, 2012


Hon. James L. Robart

Submitted by:

Submitted by:

SCHROETER GOLDMARK & BENDER

/s/ Adam J. Berger

Adam Berger, WSBA No. 20714
Counsel for Plaintiff

Approved as to form by:

BURKE, WARREN, MACKAY & SERRITELLA, P.C.

/s/ Shana A. Shifrin

Shana A. Shifrin, *pro hac vice*
Counsel for Defendant

CERTIFICATE OF SERVICE

I hereby certify that on December 13, 2012, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

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DATED at Seattle, Washington this 13th day of December, 2012.

/s/ Adam J. Berger
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